

file. Names and other identifying information of persons other than the complainant and the ADO will be deleted by the investigator from the copies shown to the ADO to protect these persons from an unwarranted invasion of their privacy. The investigator must also advise the ADO of his or her right to have a representative present.

(b) The investigator must give the ADO full opportunity to state the facts as he or she understands them, in affidavit form, for inclusion in the investigative file, and to name witnesses who might be questioned. The investigator must inform the ADO that only witnesses whose testimony is considered necessary to the investigation will be interviewed. Also, the investigator must tell the ADO that the only testimony to be obtained in affidavit form and included in the investigative file is that which the investigator deems relevant and necessary to the investigation.

(c) The activity EEO officer must keep the ADO informed of the progress of the investigation. When the investigation is completed, the EEO officer must review the investigative file to ensure that the ADO has had the opportunity to provide his or her version of the facts in response to each allegation. If the file shows that the ADO was not given this opportunity, the EEO officer will return the case file to USACARA for appropriate action.

§ 588.63 Informal adjustment and proposed disposition.

(a) The Activity Commander or a designee may, at his or her discretion, consult with the ADO on the terms under which the activity will try to informally resolve the complaint.

(b) If an informal adjustment is agreed upon, the Activity Commander or his or her designee must inform the ADO of the terms of the agreement.

(c) If an agreement is not reached, the Activity Commander or a designee will give the ADO a copy of the proposed disposition.

§ 588.64 The ADO at the hearing.

(a) The ADO has the right to testify at the hearing and comment for the record on any allegations against him or her including new allegations made

at the hearing. If the ADO has not been called to testify, the activity EEO officer must tell the ADO how and where to contact the labor counselor and the hearing examiner to arrange to testify or comment.

(b) The presence of the ADO and his or her representative, if any, at the hearing is limited to the time the ADO appears as a witness.

§ 588.65 The final Army decision.

(a) If the final Army decision finds discrimination, the Activity Commander or his or her designee will review the entire file and determine whether disciplinary action against the ADO is appropriate and record the basis for its decision. The decision shall not be included in the complaint file. If the decision is to take disciplinary action, the entire complaint file will be made available to the ADO for review. If no disciplinary action is taken against the ADO after a finding of discrimination, the complaint file will be made available to the ADO for review but names and identifying information of persons other than the complainant and the ADO will be deleted from the file. This action will be taken to protect such persons from an unwarranted invasion of privacy.

(b) If the activity takes or proposes adverse or other corrective action against the ADO based on the evidence developed in processing the complaint, the Activity Commander or his or her designee will make the entire complaint file, without deletions, available to the ADO for review. Corrective action may include requiring the ADO to complete EEO training or temporarily or permanently withdrawing the ADO's selection or disciplinary authority. Though not disciplinary, such actions constitute censure and correction of the ADO's conduct or performance.

(c) If the final decision concludes there was no discrimination, the Activity Commander or his or her designee will give the ADO a copy, sanitized in accord with a, above, of the final Army decision only.

§ 588.66 Appeals to the EEOC.

If a complainant appeals the Army decision to the EEOC Office of Review and Appeals, the EEO officer must give

the ADO a copy of the EEOC decision. If the decision of the EEOC reverses or modifies the Army decision with a finding of discrimination, the EEO officer will make the complaint file available to the ADO.

§ 588.67 Representing the ADO.

(a) The ADO has a right to have a representative present to advise him or her any time when the ADO must provide information during the complaint process. This includes the informal stage, the investigation, and the hearing.

(b) The role of the ADO representative at all stages of the EEO complaint process is limited to advising the ADO on how to respond to questions. The representative does not have the right to examine and cross-examine witnesses at the EEOC hearing (as may be done by the complaints examiner and the representatives of the complainant and the Army) because the ADO is not a party to the complaint.

§ 588.68 The ADO's role in class complaints of discrimination.

The principles and procedures in this chapter on the ADO's role in individual complaints of discrimination also apply to class complaints.

§ 588.69 Conflicts of interest.

When a person involved in the EEO complaint process (for example, EEO officer, Activity Commander, MACOM EEO officer) is named as an ADO, the procedures below will be followed in order to avoid a possible conflict of interest:

(a) *EEO Officer.* If an EEO officer is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, that officer's function in the processing of that complaint will be performed by the EEO officer at the next higher level. If the EEO officer is named as an ADO merely by virtue of his or her position, then he or she may continue to process the complaint.

(b) *Activity Commander.* If an Activity Commander is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, that commander's function in the processing of that com-

plaint will be performed by the commander at the next higher level. If the Activity Commander is named as an ADO merely by virtue of his or her position, then he or she may continue to process the complaint.

(c) *Staff Judge Advocate (SJA).* If the SJA or senior legal officer of the servicing legal office is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, legal advice to the command in the processing of that complaint will be provided by the servicing legal office of the next higher level of command. If the SJA or senior legal officer is named as an ADO merely by virtue of his or her position, then he or she may continue to provide advice on the complaint.

(d) *Civilian Personnel Officer (CPO).* If the CPO is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, the CPO at the next higher level of command will provide personnel advice to the complaint.

(e) *MACOM EEO officer.* If a MACOM EEO officer is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, that officer's function within the processing of that complaint will be performed by a special EEO officer designated by the MACOM commander. If the MACOM EEO officer is named as an ADO merely by virtue of his or her position, then he or she may continue to process the complaint.

(f) *MACOM commander.* If a MACOM commander is named as an ADO in a particular discrimination complaint based on actions he or she has taken against the complainant, that commander's function within the processing of that complaint will be performed by the Vice Chief of Staff of the Army. If the MACOM commander is named as an ADO merely by virtue of his or her position, then he or she may continue to process the complaint.

(g) *Director of EEO/Secretary of the Army.* If the Secretary of the Army or the Director of EEO is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, the Secretary